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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,925	10/27/2003	Justin Monk	020375-043600US	5092

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,925

Applicant(s)

MONK, JUSTIN

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

There does exist quite a great burden in examining additional independent claims because in the business method category, many additional items need to be covered which burden the tasks of the Examiner. For example, in the case of an allowance for a business methods case, a Reasons for Allowance must be made for each and every independent claim regardless of the lack of any separate or distinctness showing in the case.

Applicant argues that claims 12 and 19 are linking claims, but these claims do not recite limitations of claim 1. Claims 12 and 19 recite an article of manufacture, and thus is separate and distinct. The medium is capable of separate utility such as, a medium on which music is recorded and played which is not possible in a method, e.g., an abstraction.

The restriction is FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blossom in view of Cameron et al. and Melchione et al.

Art Unit: 3627

Blossom discloses receiving at a POS device a cost (col. 3, line 28 card 10 may be used with a POS device which means a cost incurred) identifying an instrument associated with a stored-value account and a credit account (card 10), generating a request to select a distribution of the cost for the transaction among the stored-value and credit accounts for presentation at the point-of-sale device (Blossom discloses use of his card in a conventional card reader which "allows a user to select a card feature" the mere presentation of plural payment options is read as "generating a request" because the card won't function unless a selection is made; the step of transmitting the cost payment to the financial institution is deemed obvious and old to the card reader art and is accomplished in Cameron et al.

However Blossom does not disclose the stored-value account and the credit account linked substantially contemporaneously with issuance of the instrument to the customer nor does it teach a selected distribution identifying a first non zero portion of the cost of the transaction applied to a stored value and a second non zero of the cost of the transaction to be applied to a credit card. However, Cameron et al do disclose selecting a non zero portion of a charge to be allocated between two credit cards, a credit card and a stored value instrument (e.g., a non specific dollar off coupon or gift certificate) or between two stored value instruments, see col. 11, lines 55 et seq. It would be obvious to modify the POS sales device of Blossom to include the selective distribution feature of allocating payments between stored value gift certificate and credit card as taught by Cameron because the motivation would be to limit the use of the credit card and hence the limiting of high rates of interest.

Regarding the limitation of substantially contemporaneously linking the stored values and the credit card, the scheme of Fig. 16 shows the linked system which is read as being substantially contemporaneous. In addition, Melchione et al. do disclose a system where "in a single session" an accounts are linked together. (see, Abstract of US '764 last sentence "The system... for opening an account in a *single session* that is in communication with") It would be an obvious modification to Blossom to include the single session linking feature in order to link the stored value and the credit accounts at substantially the same time, the motivation being that this will keep both accounts as an option from the beginning of the card's use.

Re claim 2: Blossom discloses use of his card in a conventional card reader which "allows a user to select a card feature".

Re claims 3 and 4: official notice is taken with respect to which items are available for stored value points see e.g. frequent flyer points cannot be applied during holiday flights and some retail businesses restrict what can be purchased by credit cards e.g. stamps and lotto tickets are cash based only.

Re claim 5: see col. 7 lines 6-9 for display of stored value.

Re claims 6 and 7: the step of applying only what is available in either credit or value to a cost and/or splitting same between them is deemed an old an obvious expedient.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3627

Any inquiry concerning this communication should be directed to Joseph A.

Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti
Primary Examiner
Art Unit 3627

A handwritten signature in black ink, appearing to be 'JF', written in a cursive style.

JOSEPH A. FISCHETTI
PRIMARY EXAMINER